

## REMARKS

Claims 3 and 38 remain pending in the present application. Claim 3 has been amended. Claim 38 is new. Basis for the amendments and new claims can be found throughout the specification, claims and drawings originally filed.

### REJECTION UNDER 35 U.S.C. § 103

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nonogaki (U.S. Pat. No. 6,363,266) in view of Takagaki (U.S. Pat. No. 6,871,048). Applicant respectfully traverses this rejection.

Claim 3 has been amended to define means for sending warning sounds to a user through the earphone that the music sounds producing function has been terminated to maintain the telephone function. Thus, when the user receives the warning sounds, he becomes aware that the battery level is low and that battery power is being reserved for the telephone function.

In Nonogaki, when there are no music sounds, the user does not know why the music was stopped. It could be because of the power reserve function or it could be caused by a malfunction of the mobile phone and/or the battery. The user can only know this by attempting to use the telephone to see if it will work. In the present invention, the user is immediately made aware of the low battery condition. Takagaki is only being used for an outer terminal for the ear piece.

Thus, Applicant believes Claim 3, as amended, patentably distinguishes over the art of record. Reconsideration of the rejection is respectfully requested.

## NEW CLAIM

New Claim 38 is a new independent claim. As the Examiner points out, Nonogaki discloses that the music sounds producing function is terminated when the battery capacity becomes lower than a predetermined level to thereby save the battery capacity for telephone function. Takagaki discloses that the music sounds are heard through an earphone.

However, both references do not disclose that a warning telling a user that the music sounds producing function will be restricted when the battery capacity becomes lower than the threshold level when a user inputs a signal to initiate the music sounds producing function. Further, it is not disclosed in both references the fact that the music sounds producing function has been terminated is informed to the user by warning sounds so that the user knows the low battery condition.

When the user wants to initiate the music sounds producing function, he/she watches a display panel to push a key for commanding operation of the music sounds producing function. Therefore, if the warning that the music sounds producing function will be restricted is displayed on the display panel when the battery capacity becomes lower than the threshold level, such a warning is informed to the user without fail. On the other hand, the mobile phone is usually not in sight when the music sounds are being produced (possibly in a pocket). Accordingly, it is convenient if the fact that the music sounds producing function has been terminated is positively informed to the user by warning sounds.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

By:   
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